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Provisional summary record of the 48th meeting
Held at Headquarters, New York, on Thursday, 22 July 2004, at 10 a.m.

President: Mr. Koonjul (Vice-President) ..... (Mauritius)

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04-43528 (E)

In the absence of the President, Mr. Koonjul (Mauritius) took the Chair.

The meeting was called to order at 10.30 a.m.

Implementation of and follow-up to major United Nations conferences and summits (*continued*)

Implementation of General Assembly resolutions 50/227 and 52/12 B (*continued*)

Draft resolution E/2004/L.24/Rev.1

1. **The President** invited the Council to take action on draft resolution E/2004/L.24/Rev. 1, entitled "Role of the Economic and Social Council in the integrated and coordinated implementation of the outcomes of and follow-up to major United Nations conferences and summits". The draft resolution did not have any programme budget implications.

2. *Draft resolution E/2004/L.24/Rev. 1 was adopted.*

Regional cooperation (*continued*)

Draft resolutions recommended by the Economic Commission for Latin America and the Caribbean (E/2004/15/Add.2)

3. **The President** invited the Council to take action on draft resolution I, entitled "San Juan Resolution on Productive Development in Open Economies", draft resolution II, entitled "Support for the United Nations Stabilization Mission in Haiti", and draft resolution IV, entitled "Place of the next session of the Economic Commission for Latin America and the Caribbean".

4. *Draft resolutions I, II and IV were adopted.*

5. **The President** said that consultations were still in progress on draft resolution III, entitled "Implementation of Participation of ECLAC Associate Member Countries in the Follow-up to United Nations World Conferences and in the Work of the Economic and Social Council". He took it that the Council wished to defer consideration of the draft resolution to a future session.

6. *It was so decided.*

Social and human rights questions (*continued*)

(e) United Nations High Commissioner for Refugees (E/2004/49 and E/2004/76)

(f) Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination

(g) Human rights (A/59/41, A/59/65-E/2004/48, A/59/65/Add.1-E/2004/48/Add.1, E.2004/22, E/2004/23, Part I, E/2004/L.34, E/2004/87 and E/2004/89)

(h) Permanent Forum on Indigenous Issues (E/2004/43, E/2004/L.37 and E/2004/L.41, E/2004/85, E/2004/82, E/2004/NGO/20, E/2004/CRP.11 and E/2004/CRP.12)

7. **Mr. Bijleveld** (Office of the United Nations High Commissioner for Refugees (UNHCR)), introducing sub-item (e) and referring to General Assembly resolution 58/153, said that UNHCR had worked actively with the Executive Committee on Humanitarian Affairs (ECHA) and the Inter-Agency Standing Committee (IASC) to strengthen refugee protection through cooperation among agencies. It had contributed to the work of the IASC Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises. The High Commissioner had drawn the attention of the IASC principals to the importance of the work of the Humanitarian Coordinators, and the Office had made a significant contribution to the inter-agency review of the Collaborative Approach on Internally Displaced Persons (IDPs). In 2003 UNHCR had joined the United Nations Development Group, with a view to strengthening its partnerships in pursuit of durable solutions for refugees, returnees and internally displaced persons. It had developed its own Framework for Durable Solutions, consolidating information on background, policy development and initial operational activities under the three key strategies: repatriation, reintegration, rehabilitation and reconstruction (the "4Rs"); Development through Local Integration; and Development Assistance for Refugees. It had participated in a working group to develop guidelines for the Resident Coordinators and Country Teams in achieving durable solutions for various target groups.

8. Sadly, security issues had absorbed much attention in the past year. Through the Office of the

United Nations Security Coordinator, IASC and ECHA, UNHCR had worked towards developing a clearer vision and strategy on how to manage increased risks to the security of humanitarian personnel. A field-based operational organization such as UNHCR needed a flexible security system which allowed it to leave quickly when necessary and to stay or return when possible.

9. UNHCR had successfully applied to co-sponsor the Joint United Nations Programme on HIV/AIDS. In February 2004 it had hosted and chaired the Inter-Agency Advisory Group on AIDS, on the theme of HIV/AIDS among populations displaced by conflict. Refugees had too often been stigmatized as carriers and excluded from HIV/AIDS programmes.

10. In April 2004 the High Commissioner and the Under-Secretary-General for Peacekeeping Operations had signed a joint letter on enhanced cooperation, especially in security for refugees, IDPs and returnees; disarmament, demobilization and reintegration; mine action; and the rule of law. In December 2003 the Executive Heads of UNHCR and the United Nations Human Settlements Programme had signed a Memorandum of Understanding on a number of shelter issues, including property restitution and property rights for returnees or refugees integrating into local communities. UNHCR had maintained close cooperation with the World Food Programme and joint regional workshops had been held for field colleagues involved in food management. Cooperation had been stepped up with the International Labour Organization, which was joining UNHCR, the United Nations Volunteers and the International Organization for Migration in a project aimed at a comprehensive solution for Afghan displacement.

11. The preferred durable solution for refugees was voluntary repatriation. UNHCR had active repatriation operations in Africa including the voluntary repatriation of Sierra Leoneans from Guinea and Liberia and the continuing repatriation of Eritrean refugees from the Sudan; the repatriation of Somali refugees mainly to north-west Somalia; the voluntary repatriation of Angolan refugees from Zambia, the Democratic Republic of the Congo and Namibia; the repatriation of Rwandans; and a limited operation into some of the more secure parts of Burundi. Other operations would begin in 2004 and 2005 if the various peace processes in Liberia, the Sudan, Burundi and the Democratic Republic of the Congo continued to evolve positively.

12. The reintegration of returnees was a challenge which could not be addressed by UNHCR alone. The "4Rs" strategy was well under way in Sierra Leone, Eritrea and north-west Somalia, and progress was expected in 2004 in Angola and Liberia. Where refugees were unable to return home in the immediate future, UNHCR sought to increase their self-reliance while addressing the needs of host communities, through strategies such as the Zambia Initiative, the Uganda Self Reliance Strategy and the Chogo settlement for Somali refugees in the United Republic of Tanzania. UNHCR had strengthened the staffing of resettlement operations and had enhanced resettlement operations. In protracted refugee situations, it sought solutions through the Agenda for Protection, the High Commissioner's Convention Plus initiative and the Framework for Durable Solutions. A methodology was being developed for Comprehensive Plans of Action for specific refugee situations.

13. Rapidly evolving situations in Africa called for a strong emergency preparedness and response capacity to plan for, and deal with, sudden large-scale movements of population. In Burundi, a UNHCR emergency team had been deployed to assist about 34,000 refugees who had fled across the border from the Kivus region of the Democratic Republic of the Congo. In Chad, about 196,000 refugees had fled the conflict in the Sudan's Darfur province, taking refuge along the 1,350 kilometre border. Operations were now at a critical point, with 16,000 refugees wanting to stay at the border. UNHCR was trying to move the others to camps inland. More staff were being deployed and extra relief supplies were being airlifted into the area. Heavy rains were now hampering efforts to reach and assist the refugees still located near the border. Food and relief supplies had therefore been pre-positioned in order to support the relocated refugees until the end of the rainy season.

14. Refugee documentation and registration data were being constantly improved. Gender equality and the participation of women, especially in decision-making and camp management, were also being improved through the High Commissioner's "Five Commitments to Refugee Women". Individual country plans of action were being implemented to address sexual and gender-based violence in refugee camps in Africa.

15. Innovative partnerships had been built in Africa with the African Parliamentary Union, the African Commission on Human and People's Rights and other regional and subregional organizations. UNHCR was involved in discussions on the New Partnership for Africa's Development (NEPAD), and was chairing the NEPAD sub-cluster on humanitarian response and post-conflict recovery. With its partners, it was advocating for the recognition that good governance, peace and security and conflict resolution were preconditions for sustainable development in Africa, as well as for successful repatriation.

16. **Mr. Soemarno** (Indonesia), referring to sub-item (h), said that Indonesia, which had played a key role in bringing into existence the Permanent Forum on Indigenous Issues, wished to draw attention to irregularities in the Forum's working procedures. First, his delegation was deeply concerned about the Coordinating Committee's blunder during the selection process for membership of the Forum of listing West Papua as an independent country, separate from Indonesia. Not only did that error bring into question the territorial integrity of Indonesia, but also, it constituted a grave infringement of the United Nations Charter. It was unfortunate that instead of focusing on legitimate issues of importance to indigenous people, the Forum was serving to advance the ambitions of separatist movements.

17. Second, his delegation strongly contested paragraph 52 of the report of the Permanent Forum (E/2004/43), in which the Forum expressed concern about alleged atrocities and human rights violations committed in the West Papua and Maluku provinces of Indonesia. As a matter of principle, Indonesia's 500 ethnic groups were all regarded as equally indigenous; any reference to Indonesia in the Forum's report was therefore irrelevant. Moreover, as an advisory body of experts, the Forum should have treated unconfirmed reports in a more responsible manner and engaged in constructive dialogue with his delegation. Its failure to do so constituted a severe breach of the trust Indonesia placed in the Forum. It was of the utmost importance that the Permanent Forum should fulfil its responsibilities in an impartial, objective and reliable manner.

18. **Mr. Zhang** Yishan (China), speaking on sub-item (g), said that the fundamental principle and purpose of the Commission on Human Rights was to promote and protect human rights. It should serve as a forum where countries could exchange views and build cooperation. However, during the sixtieth session of the Commission, certain countries had deliberately levelled accusations against others, thereby damaging the working atmosphere and the credibility of the Commission. With the development of globalization, an important challenge for many developing countries was how to ensure the enjoyment of economic, social and cultural rights. To ignore those rights was to deny the justified demands of developing countries on human rights issues. He urged the Commission to pay greater attention to those rights, and to the right to development.

19. Human rights and terrorism now took an important place on the Commission's agenda. All terrorism sought to harm innocent people and constituted a grave violation of human rights. The international community should therefore firmly oppose all forms of terrorism, without double standards. At the same time, it was essential to abide by international law, especially international human rights and humanitarian law. Counter-terrorism could not be used as an excuse to defy respect for and protection of human rights and fundamental freedoms.

20. In March 2004 the Chinese National People's Congress had amended the Chinese Constitution to guarantee respect for human rights. His Government would continue to strive tirelessly to raise the level of all human rights and fundamental freedoms enjoyed by the Chinese people. It wished to play an active role in the work of the Commission, to strengthen its cooperation with the Office of the United Nations High Commissioner for Human Rights, and to continue carrying out human rights exchanges and activities with other countries.

21. **Mr. Reyes Rodríguez** (Cuba) said that few issues were more important to the strengthening of peace, freedom, development and human welfare than the protection of human rights. Paradoxically, it would be difficult to find other forums within the United Nations system so given to hypocrisy, double standards and political manipulation as the Commission on Human Rights. At its sixtieth session, the major western Powers had once again tried to make the world believe that only in the South were human rights violated, and there had been a proliferation of draft resolutions condemning those who resisted the model of global dominance that the imperial super-Power was trying to impose on the world with the complicity of former

colonial countries and neo-colonialists. Those countries had succeeded in preventing the Commission from articulating its view of the humiliating and inhuman detention of hundreds of prisoners at the United States naval base in Guantánamo Bay. Members of the Council would have an opportunity to demonstrate their commitment to human rights when considering draft resolution E/2004/L.17/Rev.1 on the protection of human rights and fundamental freedoms in the context of international military operations launched to combat terrorism. Unfortunately, the industrialized Powers of the North were developing an arsenal of pretexts and false arguments to preserve the immunity of those responsible for appalling violations of human rights.

22. Aware that the Cuban people had unmasked its imperial ambitions, the Government of the United States was resorting to increasingly aggressive and hostile action to demonize and destroy the Cuban revolution and its sovereign option of development and independence. For a country that as recently as 6 May 2004 had escalated its hostile actions against the most basic human rights of the Cuban people to self-determination, development, peace and the family, the United States' preoccupation with human rights in Cuba defied any degree of credibility. For the ultra right-wing administration currently in power in the United States, the destruction of the Cuban revolution had become a political and ideological obsession. The White House had yet to admit that the Cuban nation had the right to fully exercise its sovereignty; its objective was to bring about the destruction of the Cuban people's chosen political, economic, social and cultural system. Not counting funds channelled through covert action by American intelligence agencies, some 60 million dollars would be spent over the next two years to recruit and finance a fifth column of mercenaries in Cuba.

23. The heroic Cuban people were struggling hard to protect their right to self-determination and independence against a super-Power that had arrogated to itself the right to intervene and wage preventive war against 60 or more countries. Cuba firmly rejected the anti-Cuban draft resolution imposed on the sixtieth session of the Commission; the Cuban people would always be on the side of those who pursued their dream of a world in which all people were guaranteed the full enjoyment of all their rights.

24. **Mr. Gallegos** (Ecuador), referring to sub-item (h), said that while much progress had been made regarding the recognition and protection of the rights of indigenous people, the discrimination, racism and exploitation with which they had to contend remained a challenge for those countries whose indigenous people lived below the poverty line. At the third session of the Permanent Forum on Indigenous Issues, it had become obvious that indigenous women were among the most marginalized groups of society and that their living conditions were markedly worse than those of other groups because of their limited access to health and other social services and deterioration of their environment. For that reason, priority should be given to strengthening the implementation of national policies and programmes that safeguarded health as a basic human right, and urging United Nations agencies to promote the reproductive rights of indigenous women, culture-friendly health services, and the rejection of forced sterilization programmes that could result in ethnic genocide.

25. The urgent problem of the migration of indigenous women, including trafficking within and across national borders, should be addressed more responsibly and decisively, not only for what it meant to the lives of the women themselves, but also because of the repercussions for the communities of origin, in which women played a fundamental role as mothers and as custodians of the values of their societies. Ecuador welcomed the Forum's recommendation to hold a workshop to address that issue. It believed that the machinery for institutional, subregional, regional and global dialogue needed to be strengthened and the responsibility shared.

26. To optimize the working methods of the Forum, priorities would have to be set for its recommendations, determining which were the most urgent and viable, and which could be implemented most effectively and realistically. Better coordination was needed between the efforts of the Forum and those of Governments and United Nations agencies.

27. **Ms. Taracena** (Guatemala), referring to sub-item (g), said that her country's commitment to human rights had been demonstrated in the signing of the 10 Peace Accords, including the Comprehensive Agreement on Human Rights, the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, and the Agreement on Identity and Rights of Indigenous Peoples. To honour its

commitments under the Peace Accords and under ILO Convention No. 169, the Ministry of Labour and Social Welfare, through its Indigenous People's Department, had created a diploma programme to train public servants, leaders of indigenous organizations and political parties in the identification, formulation, implementation and evaluation of multicultural public policies inspired by the ethnic and cultural diversity of the country. A comprehensive law on the protection of children and adolescents had been enacted, under which the national commission on children and adolescents was to report to Congress on its activities. In the area of child labour, Guatemala had met its international obligations by ratifying ILO Convention No. 138 concerning Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

28. **Mr. Vlasov** (Russian Federation), speaking on sub-items (f) and (g), said that the consideration of human rights issues within the United Nations should help to bring countries closer together and develop cooperation in the humanitarian sphere. It was extremely important that there should be due respect for the cultural, historical and religious traditions of States. Double standards were unacceptable. Human rights must not be politicized, or used to intervene in the internal affairs of sovereign States or to justify concepts such as "humanitarian intervention" or "limited sovereignty".

29. States themselves had primary responsibility for promoting and protecting human rights, and international institutions and monitoring mechanisms had only a subsidiary role to play. That approach underpinned the international human rights instruments and was the basis for equal international cooperation in human rights; it must be upheld by the Office of the United Nations High Commissioner for Human Rights, which was responsible for developing dialogue and cooperation among States, without politicization of any kind. Technical assistance programmes in human rights had an important role to play in the regard and must be provided on a voluntary and impartial basis. As for the staffing of the Office, the perennial problem of non-observance of the principle of equitable geographical representation must be resolved through full implementation of the recommendations of the Joint Inspection Unit (A/59/65-E/2004/48), and of the Commission's resolution 2004/73.

30. At the Commission's sixtieth session, confrontation between "North" and "South" had continued unabated, a situation for which the developed countries were primarily responsible. It was very disturbing that some States were lecturing others on human rights, even though they themselves were far from perfect in that sphere, and were looking for new scapegoats, when what was needed was an equal and mutually respectful dialogue on truly urgent issues. His delegation was also concerned at the multiplication of special procedures, which placed an additional financial burden on the United Nations and contributed nothing to the work of the universal human rights mechanisms, in which there was already duplication.

31. His delegation welcomed the prominence now given to efforts to combat racism in all its manifestations. A clear strategy must be devised for combined action to implement the decisions of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, including the resolution emanating from the African Group. The Russian Federation would continue to do everything possible to support the work of the United Nations in that area. Resolution 2004/16 adopted on its initiative at the sixtieth session of the Commission condemned neo-Nazism, the glorification of former members of the Waffen SS organization and the practice of allowing them to hold public demonstrations. Such activities, held with the connivance and sometimes even the support of the authorities, contributed to ethnic discord and insulted the memory of the countless victims of Nazism and of the Holocaust. It was astounding and deplorable that the Western group of States had voted against that resolution, thereby operating a double standard and impugning the decisions of the Nurnberg Tribunal and the purposes and principles of the United Nations, which had been established in response to the suffering caused by fascist ideology.

32. Progress towards universal observance of human rights called for effective protection of the rights of national and linguistic minorities. The international standards and universal mechanism adopted for that purpose had resulted in significant progress at the national level. However, some supposedly democratic countries which had recently joined the European Union were continuing to discriminate against those minorities and did not appear to be doing anything to rectify that situation, despite the recommendations of

the Committee on Human Rights and the Committee on the Elimination of Racial Discrimination. That situation was totally unacceptable; his delegation called upon international organizations to bring pressure to bear on those countries to comply with international and European human rights standards.

33. **Mr. Choi** (Australia), referring to sub-item (h), said that the information concerning indigenous issues contained in the report in document E/2004/85 did not adequately respond to the request made by the Council in decision 2000/22. The report made no comment on the effectiveness of United Nations mechanisms dealing with indigenous issues and no assessment of whether duplication existed or how activities could be rationalized, and did not deal with the issue of how scarce resources could be allocated more effectively.

34. It was clear that duplication and inefficiencies existed. After the Working Group on Indigenous Populations had drawn up the draft declaration on the rights of indigenous peoples, its main mandate had been fulfilled, and it had then sought to create additional work for itself on standard-setting in an effort to remain engaged and relevant. However, a range of studies that had been requested by the Working Group had never been carried out. The Working Group's study on indigenous peoples and treaties had been completed in 1999, a full decade after it had originally been mandated, and it was far from clear how that report had assisted in the development of standards for indigenous peoples.

35. Despite assertions by the Working Group that there was no duplication with other United Nations mechanisms, the overlap was obvious. His delegation was particularly concerned that, faced with increasing disquiet among States regarding its relevance, the Working Group was now trying to differentiate its mandate in order to ensure its own continuation. In so doing, it had lost its original focus of promoting improvement of the situation of indigenous peoples; that role had been more than adequately taken over by the Permanent Forum on Indigenous Issues. For that reason, his delegation strongly believed that the time had come to end the mandate of the Working Group.

36. **Mr. Bernal** (Colombia) said that his delegation rejected the selective mention of an alleged situation in the Colombian indigenous populations in paragraph 52 of the report of the Permanent Forum on Indigenous Issues (E/2004/43). The Permanent Forum seemed to be unaware of the particular circumstances of a national situation characterized by an internal armed conflict that had consequences for the safeguarding of fundamental rights. It was imputing responsibility to his Government for actions that had been carried out by non-governmental armed groups against civilians, including indigenous peoples, who enjoyed special protection under the Colombian Constitution. Meanwhile, States in other parts of the world where actual atrocities and human rights violations had taken place were not named. His delegation called on the Council to undertake a review of the working methods of the Permanent Forum to ensure rigorous objectivity in its work.

37. His delegation would join in the consensus on the draft decision, but wished to express its concerns and reservations. It reiterated its support for the Permanent Forum, but urged the Forum to stay within its mandate and abide by the principles governing the United Nations system as well as the human rights protection system, especially the cardinal principles of objectivity and non-selectivity. The Forum must avoid overlap and duplication with other bodies. His delegation did not accept the dangerous tendency whereby the Council was becoming a passive onlooker in relation to the actions of its subsidiary organs and the reports they produced.

38. **Mr. Abreha** (Observer for Ethiopia) expressed his delegation's disappointment that the report of the Permanent Forum on Indigenous Issues on its third session (E/2004/43, para. 52), singled out his country to express its deep concern about the violation of the human rights of indigenous peoples. The Ethiopian Constitution clearly guaranteed the rights of its diverse nations, nationalities and peoples to speak, write and develop their own languages, to express, develop and promote their cultures, and to preserve their histories. Under the Constitution, those nations, nationalities and peoples had the right to self-government, including the right to establish governmental institutions in their territories, and to equitable representation in state and federal government.

39. Since no nation, nationality or people in Ethiopia had ever been referred to as "indigenous", his delegation was surprised that the Forum had even deliberated on the situation of indigenous people in Ethiopia. Such allegations exceeded its mandate and would be more appropriately considered in other United Nations bodies. Singling out developing

countries for criticism on the strength of baseless allegations was of questionable value and appeared to be politically motivated. His delegation therefore called on the Permanent Forum to take into account the concerns and reservations he had outlined with respect to paragraph 52 of its report, and to address the issue of the human rights of indigenous peoples within its mandate, as laid down in Economic and Social Council resolution 2000/22.

40. **Mr. Begg** (Observer for New Zealand) said that his delegation, too, was disappointed at the lack of analysis in the report of the Secretary-General on information concerning indigenous issues requested by the Economic and Social Council (E/2004/85). Only a small number of Member States had provided information and views for inclusion in the report and, regrettably, with one or two exceptions, those States that had been most vocal in calling for the review and had expressed the strongest views on it had not provided input to either the current or the previous year's report.

41. While, for two decades, the Working Group on Indigenous Populations had played a vital role in bringing indigenous issues to the attention of the international community, its more recent debates had become stale and its work had not led to improvements in the living conditions of indigenous people. The Working Group on a draft United Nations declaration on the rights of indigenous peoples now appeared to be the main standard-setting body. His delegation welcomed recent improvements in transparency and confidence, and hoped that the handful of States which continued to block progress would reflect very carefully on their position. His delegation believed that if the current commitment and momentum in favour of compromise on all sides continued, negotiations could be completed before the expiry of the Working Group's mandate.

42. Meanwhile, the Permanent Forum on Indigenous Issues had gained pre-eminence as both a model for confidence-building, consultation and partnership between States and indigenous peoples, and as a body led by indigenous people. New Zealand had supported its work as the focal point for system-wide activities, including by the specialized agencies. It welcomed increasing cooperation among components of the United Nations system to promote indigenous causes and supported continued strengthening of existing cooperation mechanisms and exchanges of information. It also endorsed the vital role played by Special Rapporteur of the Commission on Human Rights on the situation of human rights and fundamental freedoms of indigenous peoples. New Zealand hoped that he would work closely with the Permanent Forum, and would welcome a visit by him.

43. The issue of duplication must be addressed. Multiple forums addressing similar or overlapping issues were becoming a drain on budgetary resources, and multiple meetings and venues placed significant burdens on Governments and indigenous delegations. Fewer meetings and a rationalization of agendas would help to boost attendance and encourage wider representation and a greater exchange of views. A decision on the future of the Working Group on Indigenous Populations would have to be taken soon, taking into account the views of indigenous experts. One option would be to make it a sessional working group of the Subcommission on the Promotion and Protection of Human Rights. It would also be useful to examine the length of its sessions, given the declining attendance by Member States.

44. **Ms. Johansen** (United Kingdom) agreed with the representatives of Australia and New Zealand that the Council should continue to review the future of the Working Group on Indigenous Populations in view of the obvious overlap between its mandate and that of the Permanent Forum on Indigenous Issues.

45. **Mr. Takase** (Japan) referred to the note by the Secretary-General on the report of the Joint Inspection Unit on the management review of the Office of the United Nations High Commissioner for Human Rights (A/59/65-E/2004/48) and expressed the hope that it would contribute to further enhancing the effective and efficient management of that Office.

46. Turning to the report of the Secretary-General on information concerning indigenous issues requested by the Economic and Social Council (E/2004/85), he said that, like the delegation of Australia, Japan supported the conclusions concerning more effective use of the scarce resources of indigenous peoples and their organizations and a lead role for the Council in ensuring greater coherence and coordination among the various United Nations mechanisms for indigenous peoples (E/2004/85, sect. VI, paras. 50 and 51). The Council should continue its efforts in line with those conclusions.

47. **Mr. Gopinathan** (India) said that his delegation shared Indonesia's concerns with respect to the selection of experts to represent indigenous peoples, as well as the general concern at the Permanent Forum's tendency to exceed its mandate and deal with questions beyond its competence. It was regrettable that the Council had not undertaken a thorough review of all the mechanisms and procedures available within the United Nations system to deal with indigenous issues. His delegation hoped the report of the Secretary-General would be carefully considered during the fifty-ninth session of the General Assembly in anticipation of the comprehensive review to be carried out in 2005.

Recommendations contained in the report of the Commission on Human Rights (E/2004/23 and E/2004/23/Corr.1 and programme budget implications thereto, contained in document E/2004/L.34)

48. **The President** invited the Council to turn to the draft decisions recommended for adoption by the Council contained in chapter I of the report of the Commission on Human Rights on its sixtieth session (E/2004/23 and Corr.1) the programme budget implications of which were set out in document E/2004/L.34.

Draft decision 1: Strengthening of the Office of the United Nations High Commissioner for Human Rights

49. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

None.

Abstaining:

Australia, United States of America.

50. *Draft decision 1 was adopted by 52 votes to none, with 2 abstentions.*

Draft decision 2: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

51. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Benin, Bhutan, Burundi, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Ghana, Guatemala, India, Indonesia, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nigeria, Panama, Qatar, Russian Federation, Senegal, Tunisia, United Arab Emirates, United Republic of Tanzania, Zimbabwe.

Against:

Australia, Belgium, Canada, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Poland, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Nicaragua, Republic of Korea, Saudi Arabia.

52. Draft decision 2 was adopted by 34 votes to 17, with 3 abstentions.

Draft decision 3: The right to development

53. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

Australia, Japan, United States of America.

Abstaining:

None.

54. *Draft decision was adopted by 51 votes to 3.*

Draft decision 4: Question of the violation of human rights in the occupied Arab territories, including Palestine

55. **Ms. Zack** (United States of America), speaking in explanation of vote before the voting, said that the United States was deeply concerned about terrorist activities and ongoing violence in Israel, the West Bank and the Gaza. Indeed, the human rights situation had deteriorated in large part due to the conflict. The United States regretted all civilian casualties and suffering and mourned with the families of innocent victims on both sides. Unfortunately, the draft decision did not reflect the reality of the situation on the ground. Rather, it presented a completely one-sided perspective and turned a blind eye on everything else occurring in the region, including terrorism.

56. The United States was intensely engaged in trying to move the Middle East peace process forward in a manner consistent with Security Council resolutions 242 (1967), 338 (1973) and 1397 (2002). In his address delivered on 24 June 2002, President Bush had clearly articulated his vision of two States, Israel and Palestine, living side by side in peace and security. In November 2003, the Security Council had unanimously adopted its resolution 1515 (2003) endorsing the Quartet Performance-based Roadmap and calling on the parties to fulfil their obligations under the Roadmap to achieve the vision of two States living side by side in peace and security.

57. The United States would vote against the draft decision and urged all those opposed to the use of terrorism to demonstrate their position by doing likewise.

58. **Mr. Laurin** (Canada) said that Canada continued to have serious concerns regarding the human rights situation in the Palestinian territories. Canada was particularly troubled by the continued construction of the barrier within the West Bank and East Jerusalem, as well as the effects of ongoing curfews and closures on the humanitarian and socio-economic situation. Settlement expansion, the expropriation of lands, and the destruction of houses and property within the occupied territories were contrary to international law, undermined the prospects for a two-State solution and were harmful to the peace process. Canada urged all parties to comply fully with international law, including international humanitarian law, and maintain the applicability of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) to the occupied territories.

59. As indicated in its statement during the session of the Commission on Human Rights, Canada could not emphasize strongly enough its belief that dialogue, not violence, was the best means of advancing peace, and ultimately, the security, dignity and human rights of all people. By failing to condemn all acts of terrorism, the resolution of the Commission on Human Rights neither adequately reflected the situation nor contributed to its improvement. Furthermore, it contained inflammatory and unacceptable language that singled out one party to the conflict. For those reasons, his delegation would vote against the draft decision.

60. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Benin, Bhutan, Burundi, Chile, China, Colombia, Congo, Cuba, Ecuador, Ghana, India, Indonesia, Jamaica, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Panama, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Tunisia, Turkey, Ukraine, United Arab Emirates, United Republic of Tanzania, Zimbabwe.

Against:

Australia, Canada, Germany, Hungary, Italy, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Belgium, Finland, France, Greece, Guatemala, Ireland, Japan, Kenya, Nicaragua, Nigeria, Poland, Sweden.

61. *Draft decision 4 was adopted by 34 votes to 7, with 12 abstentions.*

Draft decision 7: Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.

62. *A recorded vote was taken.*

In favour:

Azerbaijan, Bangladesh, Belize, Benin, Bhutan, Burundi, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Ghana, Guatemala, India, Indonesia, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Tunisia, United Arab Emirates, United Republic of Tanzania, Zimbabwe.

Against:

Australia, Belgium, Canada, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Poland, Senegal, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Armenia, Ukraine.

63. Draft decision 7 was adopted by 35 votes to 17, with 2 abstentions.*

Draft decision 8: The right to food

64. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

United States of America.

Abstaining:

Australia.

65. *Draft decision 8 was adopted by 52 votes to 1, with 1 abstention.*

Draft decision 9: Human rights and extreme poverty and draft decision 10: The right to education

66. *Draft decisions 9 and 10 were adopted.*

Draft decision 11: The right of everyone to the enjoyment of the highest attainable standard of physical and mental health

67. **Ms. Zack** (United States of America), speaking in explanation of vote before the voting, said that in the view of her delegation, there were several problems with the draft decision. Her delegation also had concerns regarding the report prepared by the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, and believed that the Special Rapporteur had exceeded his mandate and had inappropriately focused on rights to sexual and reproductive health. Consequently, her delegation would vote against the draft decision.

68. *A recorded vote was taken.*

In favour:

Armenia, Australia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

United States of America.

Abstaining:

None.

69. *Draft decision 11 was adopted by 53 votes to 1.*

* The delegation of Senegal subsequently informed the Council that it had intended to abstain.

Draft decision 12: Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights

70. **Mr. Hof** (Observer for the Netherlands), speaking in explanation of vote before the voting, on behalf of the European Union, recalled that the draft decision before the Council merely approved the decision of the Commission on Human Rights to renew, for a period of two years, the mandate of the open-ended Working Group with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. The renewal of that mandate was important because a more thorough debate was needed on the options, and that view was shared by the majority of the Working Group's members. The draft decision followed the recommendation of the Working Group's Chairperson/Rapporteur, which struck a delicate balance between the various positions expressed. The European Union therefore felt that the draft decision was a balanced compromise that preserved the need for a meaningful outcome of the Working Group, while recognizing the need for further debate. The European Union supported the draft decision and its member States would vote in favour of it.

71. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Republic of Korea, Russian Federation, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

Australia.

Abstaining:

Qatar, Saudi Arabia, United Arab Emirates, United States of America.

72. *Draft decision 12 was adopted by 49 votes to 1, with 4 abstentions.*

Draft decision 13: The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms

73. **Ms. Zack** (United States of America), speaking in explanation of vote before the voting, said that her delegation had joined the consensus on resolution 2004/34 of the Commission on Human Rights, and supported the initiative. However, her delegation was surprised to see that the draft decision before the Council had programme budget implications, even though the text of the draft decision requested the United Nations High Commissioner for Human Rights to hold the meeting in question using available resources. It therefore believed that the funds for the meeting should have been found within the existing resources of the regular budget. Although her delegation would otherwise have been able to join the consensus, it would have to vote against the draft decision.

74. *A recorded vote was taken.*

In favour:

Armenia, Australia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

United States of America.

Abstaining:

None.

75. *Draft decision 13 was adopted by 52 votes to 1.*

76. **Mr. Takase** (Japan), said that Japan had been a sponsor of resolution 2004/34 of the Commission on Human Rights because it supported the initiative and because the resolution had contained the phrase "using available resources". It therefore regretted that the decision adopted by the Council had programme budget implications. His delegation had voted in favour of the decision on the understanding that the programme budget implications should be absorbed by cutting other activities of the Commission, having lower priority.

Draft decision 14: Elimination of all forms of religious intolerance

77. *Draft decision 14 was adopted.*

Draft decision 15: Extrajudicial, summary or arbitrary executions

78. *A recorded vote was taken*

In favour:

Armenia, Australia, Azerbaijan, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Mauritius, Mozambique, Namibia, Nicaragua, Panama, Poland, Republic of Korea, Russian Federation, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Zimbabwe.

Against:

None.

Abstaining:

Bangladesh, China, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigeria, Qatar, Saudi Arabia, United Arab Emirates.

79. *Draft decision 15 was adopted by 45 votes to none, with 9 abstentions.*

80. **Ms. Zack** (United States of America) said that the United States had enthusiastically joined the sponsors of resolution 2004/37 of the Commission on Human Rights condemning executions that were extrajudicial, summary or arbitrary, and also had voted in favour of the decision just adopted by the Council. However, the United States believed that the decision should reflect the fact that the mandate of the Special Rapporteur did not include questioning or challenging the legitimacy of capital punishment per se under international law and did not include directly or indirectly promoting or campaigning for the abolition of the death penalty where it currently existed.

Draft decision 16: Enforced or involuntary disappearances; draft decision 17: Torture and other cruel, inhuman or degrading treatment or punishment; draft decision 18: Human rights of migrants; and draft decision 19: Internally displaced persons

81. *Draft decisions 16, 17, 18, and 19 were adopted.*

Draft decision 20: Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights, and the International Decade of the World's Indigenous Peoples

82. **Ms. Zack** (United States of America), speaking in explanation of vote before the voting, said that the United States of America had supported the initiative to create the Permanent Forum on Indigenous Issues, which was beginning to fulfil the vision of mainstreaming the concerns of indigenous communities throughout the United Nations system. The Working Group on a United Nations draft declaration on the rights of indigenous peoples was continuing its work to articulate international protections for indigenous people. Given the existence of the Permanent Forum, the Working Group and the Special Rapporteur of the Commission on Human Rights, the United States of America could not continue to support the Working Group on Indigenous Peoples, which was consuming scarce resources at a time when the full range of issues was being addressed by the Permanent Forum. The United States of America did not find that duplication of performance appropriate or justifiable and would prefer to see those resources more efficiently utilized for other important activities.

83. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Ghana, Guatemala, India, Indonesia, Jamaica, Kenya, Libyan Arab Jamahiriya, Mauritius,

Mozambique, Namibia, Nicaragua, Panama, Qatar, Russian Federation, Saudi Arabia, Senegal, Tunisia, Ukraine, United Arab Emirates, United Republic of Tanzania, Zimbabwe.

Against:

Australia, United States of America.

Abstaining:

Bangladesh, Belgium, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Malaysia, Nigeria, Poland, Republic of Korea, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland.

84. *Draft decision 20 was adopted by 35 votes to 2, with 17 abstentions.*

Draft decision 21: Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

85. *Draft decision 21 was adopted.*

86. **Ms. Zack** (United States of America) said that her delegation had joined the consensus on the draft decision. However, it noted that the Working Group on a United Nations draft declaration on the rights of indigenous peoples continued to struggle to complete its work. The United States supported the concept of internal self-determination, whereby local authorities took their own decisions on a range of issues. It urged the Working Group to make rapid progress, based on principles that could be applied everywhere, for the benefit of native peoples and the nation States of which they were part. It hoped that a declaration would be completed before the end of the current decade.

Draft decision 22: Situation of human rights in Myanmar; draft decision 23: Human rights and indigenous issues; and draft decision 24: Follow-up to the United Nations Decade for Human Rights Education

87. *Draft decisions 22, 23 and 24 were adopted.*

Draft decision 26: Composition of the staff of the Office of the United Nations High Commissioner for Human Rights

88. *A recorded vote was taken.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Benin, Bhutan, Burundi, Chile, China, Colombia, Cuba, Ecuador, El Salvador, Ghana, India, Indonesia, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nigeria, Panama, Qatar, Russian Federation, Saudi Arabia, Tunisia, United Arab Emirates, United Republic of Tanzania, Zimbabwe.

Against:

Australia, Belgium, Canada, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Poland, Republic of Korea, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Guatemala, Nicaragua, Senegal.

89. *Draft decision 26 was adopted by 32 votes to 18, with 3 abstentions.*

Draft decision 27: Assistance to Somalia in the field of human rights; draft decision 31: Assistance to Sierra Leone in the field of Human Rights; and draft decision 33: World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

90. *Draft decisions 27, 31 and 33 were adopted.*

91. **The President** reminded the Council that draft decisions 5, 6, 25, 28, 29, 30 and 32 had been adopted at its resumed organizational session on 15 June 2004.

The meeting rose at 1.05 p.m.